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Matti Puputti

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EXAMINER

CHOWDHURY, SUMAIYA A

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/989,301

Applicant(s)

PUPUTTI, MATTI

Examiner

Sumaiya A. Chowdhury

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Remarks, filed 5/23/07, with respect to claims 1-45 have been fully considered and are persuasive. The Office Action of 1/23/07 has been withdrawn.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5-6, 8, 10-19, 21-22, 24, 26-35, 37-38 and 41-45, are rejected under 35 U.S.C. 102(e) as being anticipated by Kessler (6741288).

As for claims 1, 14, and 15, Kessler discloses:

Means/transmitter (headend) for transmitting, to an end user terminal (fig. 1) a service (program) having a control channel (system control data) over a first transport stream, in accordance with a first configuration parameter (PID) of the service stored by the end user terminal, in which the control channel is identified with the first transport stream – (A program map table (PMT) including PIDs is transmitted to the client end.

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The PMT contains information about the programs. The program includes content data and system control data. col. 3, lines 26-50);

Means/processor (headend) for generating and transmitting a second configuration parameter (subsequent system control data transmitted in updated PMT version) to the end user without receiving interactive information from the end user terminal, the second configuration parameter identifying the control channel with a second transport stream – (The updated PMT is received without user interaction – col. 8, lines 33-67); and

Means (headend) for transmitting the service to the end user terminal over the second transport stream – (The program is now transmitted in accordance with the updated PMT – col. 8, lines 33-67, col. 3, lines 26-50).

As for claims 2, 18 and 34, Kessler discloses wherein the network is a digital video broadcasting network – col. 3, lines 20-25.

As for claims 3, 19 and 35, Kessler teaches wherein the network is a computer network (CATV cable)– (col. 3, lines 22-26).

As for claims 5, 21, and 37, Kessler discloses wherein the second configuration parameter comprises data allowing the end user terminal to access the service (The second configuration parameter is in the updated PMT which includes the new PID value which is required to access the service – col. 3, lines 25-30, lines 42-50).

As for claims 6, 22, and 38, Kessler discloses wherein the service comprises television programs – (col. 3, lines 20-30).

As for claims 8 and 24, Kessler discloses wherein said transmitting the second configuration parameter further comprises: generating the second configuration – (updated PMT; col. 3, lines 25-30, lines 42-50).

As for claim 10, Kessler discloses wherein the second configuration parameter includes a program identifier for the service transmitted in the second transport stream (subsequent PID sent in updated PMT – col. 3, lines 30-50).

As for claims 11, 27 and 42, Kessler discloses wherein the service comprises a plurality of services from a plurality of service providers (Satellite TV and CATV receive

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TV programs from plural service providers such as CNN, FOX, NBC, CBS, etc. – col. 3, lines 22-25).

As for claims 12 and 28, Kessler discloses wherein the first configuration parameter (PID) comprises at least one parameter corresponding to addressing information for the service (col. 3, lines 36-50).

As for claims 13 and 29, Kessler discloses wherein the second configuration parameter (updated PID) comprises at least one parameter corresponding to addressing for the service (col. 3, lines 36-50).

Claim 16 contains the limitations of claim 1 and is analyzed as previously discussed with respect to that claim.

Claims 17, 30, and 31 contain the limitations of claim 1 and are analyzed as discussed with respect to that claim. Claims 17, 30, and 31, additionally disclose a first portion of a transport stream and a second portion of a transport stream. The Examiner analyzes the first portion of the transport stream to be the transport stream the service is transmitted on before receiving the updated PMT. Likewise, the second portion of the

transport stream is the transport stream the service is transmitted on after received the updated PMT (col. 8, lines 33-67, col. 3, lines 26-50).

As for claim 26, Kessler discloses wherein the second configuration parameter includes a program identifier the service transmitted in the second portion of the transport stream (The updated table includes the updated PIDs for the service transmitted in the second portion of the transport stream – col. 3, lines 26-50).

Claim 32 contains the limitations of claims 1 and 17 and is analyzed as previously discussed with respect to those claims.

Claims 33, 43 and 44, contain the limitations of claim 1 and are analyzed as previously discussed with respect to those claims.

As for claim 41, Kessler discloses wherein said transmitting the configuration parameter comprises transmitting a program identifier for the service through the transport stream (The PIDs are transmitted to the user through the transport streams – col. 8, lines 33-67).

Claim 45 contains the limitations of claim 1 and is analyzed as previously discussed with respect to those claims. Claim 45 additionally discloses the following:

generating an appropriate interface using the at least one configuration parameter (When the user selects a program, the system looks up, selects, and then displays the program by referring to the table as discussed in claim 1);

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4, 20 and 36, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler in view of Kakizaki (6229883).

As for claims 4, 20, and 36, Kessler fails to disclose the control channel is an Internet Protocol control channel.

In an analogous art, Kakizaki discloses the control channel is an Internet Protocol control channel – col. 5, lines 53-57.



It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Kessler's invention to include the control channel is an Internet Protocol control channel, as taught by Kakizaki, for the advantage of using the major standard that enables information exchange between computers.

3. Claims 9, 25, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler in view of Park (6724981).

As for claims 9 and 40, Kessler fails to disclose selecting the second transport stream based on bandwidth of the first and second transport stream.

In an analogous art, Park teaches selecting either the first or second stream according to the bandwidth in order to conserve bandwidth – (see Abstract, col. 2, lines 36-41, lines 52-56, col. 9, lines 7-10, col. 10, lines 46-51).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Kessler's invention to include the above mentioned limitation, as taught by Park, for the advantage of conserving bandwidth.

As for claim 25, Kessler fails to disclose selecting the second portion of the transport stream based on bandwidth of the first and second transport stream.

In an analogous art, Park teaches selecting either the first or second stream according to the bandwidth in order to conserve bandwidth – (see Abstract, col. 2, lines 36-41, lines 52-56, col. 9, lines 7-10, col. 10, lines 46-51).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Kessler's invention to include the above mentioned limitation, as taught by Park, for the advantage of conserving bandwidth.

4. Claims 7, 23, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler as applied to claim 1 above, and further in view of Levitan (US 2002/0147769).

As for claims 7, 23 and 39, Kessler fails to disclose wherein the service is an Internet Protocol-based service.

In an analogous art, Levitan discloses wherein the service is an Internet Protocol-based service – [0021] and [0023].

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Kessler's invention to include the above mentioned

limitation, as taught by Levitan, for the advantage of using the major standard that enables information exchange between computers.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumaiya A. Chowdhury whose telephone number is (571) 272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAC

  
ANDREW Y. KOENIG  
PRIMARY PATENT EXAMINER